



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Writ Petition No.41017 of 2006

T.Kumarasamy

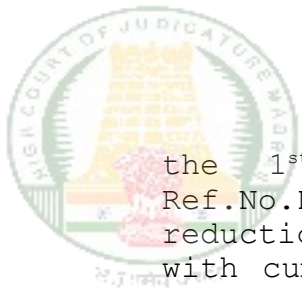
...Petitioner

Vs

1. Disciplinary Authority
Deputy General Manager
State Bank of India, Zonal Office
Melur Road, Madurai-625 002
2. Appointing Authority
General Manager (Operation)
State Bank of India, Local Head Office,
College Lane, Chennai-600 006
3. State Bank of India
rep. By its Chief General Manager
Appellate Authority, Local Head Office
College Lane, Chennai-600 006
4. Reviewing Committee,
rep. By Deputy General Manager (Appeals & Review)
State Bank of India, Corporate Centre
New Administrative Building
Madama Cama Road, (Nariman Point)
Back Bay Reclamation, Mumbai-400 021
5. State Bank of India
rep. By its Chairman
16th floor, Corporate Centre
New Administrative Building
Madama Cama Road, (Nariman Point)
Back Bay Reclamation, Mumbai-400 021
6. Circle Development Officer
State Bank of India
Local Head Office
16, College Lane, Chennai- 600 006

...Respondents

Prayer : Writ Petition filed praying to issue a writ of Certiorarified Mandamus calling for the records from the respondents relating to the order dated 09.12.2005 bearing Ref.No.A&R/58 communicated by the 6th respondent said to have been issued by the 5th respondent and the order dated 07.02.2004 bearing Ref.No.NIL of the 4th respondent confirming the order of the Appellate Authority, 3rd respondent, bearing Ref.No.A&R/111 dated 13.02.2003 and the order of the Appointing Authority, 2nd respondent, dated 26.04.2002 bearing Ref.No.NIL, communicated by



the 1st respondent vide letter dated 11.05.2002 bearing Ref.No.DIS.CON. No.146, in imposing major punishment of reduction of two stages in basic pay for a period of 5 years with cumulative effect with the period of suspension treated as suspension only, quash the same and consequently direct the respondents to grant the petitioner the back wages and other consequential benefits but for the imposition of the punishment in question including promotion with effect from 1st November 1997 as MMG Scale III with continuity of service, and all other consequential and attendant benefits.

For Petitioner : Mr.K.M.Ramesh
For Respondents : Mr.M.Devaraj, for R1 to R6.

ORDER

The petitioner joined the service of the respondent Bank as Clerk/Typist during 1978 and thereafter worked as an Officer at various Branches. While the petitioner was working at Palamedu Branch, Madurai, as Branch Manager, he was placed under suspension with effect from 28.10.1998 by the first respondent for certain acts of irregularity alleged to have been committed by the petitioner in TDR/Sundry Loan and other areas and also for alleged violations of Rule No.32 (4) of SBI (Supervising Staff) Service Rules read with Rule 50(4) of SBI Officers' Service Rule pending initiation of Disciplinary Proceedings.

2. The petitioner's representation for review of suspension was decided by the 1st respondent and the petitioner was reinstated with effect from 11.07.2001 in the Bank's service and 1st respondent informed that period of suspension would be decided only on completion of the Disciplinary proceedings initiated against him.

3. In the mean time, 1st respondent issued a show cause notice on 10.11.2000 and the allegation in Charge No.1 is that the petitioner colluded with one K.Dakshinamurthy, the then Branch Manager of Arasaradi Branch of State Bank of India and caused monetary loss to the Bank to the tune of Rs.20 lakhs. Charge No.2 is that the petitioner acted in gross negligent manner. Charge No.3 is relating to unauthorised purchase of cheque for Rs.10 lakhs drawn by a fictitious customer and unauthorised collection of a cheque for Rs.1 lakh drawn in favour of a concern, which is not a customer of Palamedu Branch.

4. In respect of the above charges, the petitioner gave detailed explanation. Enquiry proceedings were conducted and completed and Enquiry officer concluded that Charge (1) to Charge (5) were partly proved and charge No.(vi) not proved. The first respondent concurred with the findings of the Enquiry



Officer and imposed punishment of "Reduction in basic pay by two stages for five years and that official is not eligible for any benefits like increment, seniority and promotion during the period of his suspension".

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5. The appeal preferred by the petitioner was also rejected by the third respondent. The 4th respondent confirmed the orders passed by the first and second respondents.

6. The contention of the learned counsel for the petitioner is that the petitioner was discriminated by the first respondent not only from colleagues who have fallen victims at the hands of K.Dakshinamurthy in the matter of taking the disciplinary action and consequent imposition of punishment but also from the staff of the Bank who are sanctioned increments during the period of suspension. This is glaring discrimination and is against the provisions of Constitution of India.

7. It is contended by the petitioner counsel that K.Dhakshinamurthy exploited 7 branches to the tune of Rs.2.67 crores by involving the officials worked there. There are huge losses in other branches. It is also stated that disciplinary proceedings have become highly time consuming and long drawn processes and because of the stigma attached, the person facing the disciplinary proceedings normally goes through tremendous mental agony.

8. The petitioner counsel also submits that the petitioner is incurring huge monetary loss on account of the harsh punishment of reduction of two stages for 5 years on cumulative basis from the date of the final order besides treating the period of suspension as suspension only. Further the petitioner was kept under suspension for long period of around 3 years and he become the victims of circumstances under evil designs of K.Dakshinamurthy.

9. The learned counsel for respondents 1 to 6 would submit that the punishment imposed against the petitioner is not disproportionate to the proven charges. The petitioner caused huge loss to the Bank and deserves no sympathy or lesser punishment. He further submits that there is no merit in the writ petition and the writ petition is liable to be dismissed.

10. Heard both sides and perused the records.

11. A perusal of materials available on record would go to show that the petitioner was issued charge sheet for certain serious irregularities committed by him while working as Branch Manager at Palamedu Branch. After taking into consideration the submission of the petitioner, the Enquiry Officer [Disciplinary

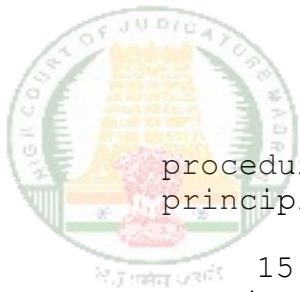


Authority] after due enquiry, recommended to the Appointing Authority for imposing the penalty of "Reduction in Basic Pay by two stages for five years with the period of suspension treated as suspension only". The Appointing Authority, accepted the recommendation and imposed the penalty of "Reduction in Basic Pay by two stages for five years with the period of suspension treated as suspension only" vide his order dated 26.04.2002. As per the SBI Officers Services Rules, the petitioner has also filed appeal dated 24.06.2002 and drawn the attention to the appreciable good work done by him to the appellate authority.

12. The appellate authority, while appreciated the good work done by the petitioner, held that that alone would not nullify the effect of the charges already proved. The loyalty displayed by the petitioner in helping the Bank towards recovery of the defrauded amount is appreciable but this cannot absolve the appellant of the lapses/irregularities committed by the petitioner and for the said irregularities, the penalty has been imposed. The personal/financial problems faced by the petitioner because of the penalty cannot be a mitigating factor. The appellate authority also held that the penalty imposed on the other similarly placed staff cannot be compared because it is done based on various factors. The penalty including the treatment of suspension period has been imposed keeping in view the seriousness/gravity of the charges proved and amount of loss incurred by the Bank. The Appellate authority as such, held that the penalty imposed is commensurate with the gravity of charges proved and rejected the appeal filed by the petitioner on 13.02.2003. The petitioner filed review by way of representation dated 10.11.2005 to the Chairman, State Bank of India. The 6th respondent while considering the said review, pointed out that as there is no provision in SBI Officers' Service Rules for any further review, the request was rejected.

13. This court, while going through the entire records and Services Rules of the Bank, is of the considered view that the charges levelled against the petitioner are serious in nature. The petitioner had been negligent in following the systems and procedures of the Bank and he had failed to take steps to protect the interest of the Bank and failed to discharge his duties with devotion and diligence thereby violated Bank Service Rules. Considering the gravity of lapses and the substantial loss to the Bank, the punishment imposed by the Disciplinary Authority is not in any way disproportionate to the proven charges.

14. The power of judicial review in the matters of disciplinary inquiries, exercised by the departmental/appellate authorities under Article 226 of the Constitution of India is circumscribed by limits of correcting errors of law or



procedural errors leading to manifest injustice or violation of principles of natural justice.

15. It is settled proposition of law that the Court/Tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. When the disciplinary enquiry is conducted for the alleged misconduct against the public servant, the Court is to examine and determine: (i) whether the enquiry was held by the competent authority; (ii) whether rules of natural justice are complied with; (iii) whether the findings or conclusions are based on some evidence and authority has power and jurisdiction to reach finding of fact or conclusion.

16. While invoking writ jurisdiction, this court does not find any infringement or violation of fundamental rights guaranteed by the Constitution of India nor violation of principles of natural justice or procedural lapse in the conduct of enquiry. In the case on hand, the appellate authority has rightly considered the grounds raised by the delinquent employee and keeping in view the grave nature of charges levelled against him and the same being proved and confirmed the punishment imposed by the disciplinary authority. Therefore, it is not appropriate for this court to go into the entire facts once again and take a different view. The disciplinary authority recorded the guilt of the petitioner for the charges 1 to 5 and imposed punishment which the appellate authority has also confirmed taking note of serious irregularities which are grave in nature.

17. For the reasons stated above, the writ petition has no merits. Considering the punishment imposed by the disciplinary authority which was confirmed by the appellate authority, this court does not find any reason to interfere with the same and the said punishment is not disproportionate to the proven charges. The petitioner who failed to maintain absolute integrity in his service, is not entitled for any relief sought for in this writ petition. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

nvsri



To

1. Disciplinary Authority
Deputy General Manager
State Bank of India, Zonal Office
Melur Road, Madurai-625 002
2. Appointing Authority
General Manager (Operation)
State Bank of India, Local Head Office,
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5. State Bank of India
rep. By its Chairman
16th floor, Corporate Centre
New Administrative Building
Madama Cama Road, (Nariman Point)
Back Bay Reclamation, Mumbai-400 021
6. Circle Development Officer
State Bank of India
Local Head Office
16, College Lane, Chennai- 600 006

+1CC to Mr.K.Mohandas, Advocate, Sr.No.49191

+1CC to Mr.K.M.Ramesh, Advocate, Sr.No.48952

[22/04/2022]

W.P.No.41017 of 2006

RLD(CO)
K.RK.13.10.2021)